

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**M.A.N. NAZARETH INC. DBA TOWER PHARMACY, MICHAEL ALLEN
NAZARIAN**

Pharmacy Permit No. PHY 53607;

and

ARTIN AGHAKHANI

Pharmacist License No. RPH 72110;

Respondents.

Agency Case No. 7035

OAH No. 2021030030

and

Agency Case No. 7154

OAH No. 2021080234

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on January 19, 2022.

It is so ORDERED on December 20, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" clearly visible, and "W." in the middle.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 DIANA PETIKYAN
Deputy Attorney General
4 State Bar No. 306153
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6193
6 Facsimile: (916) 731-2126
E-mail: Diana.Petikyan@doj.ca.gov
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **M.A.N. NAZARETH INC. DBA TOWER**
14 **PHARMACY, MICHAEL ALLEN**
15 **NAZARIAN**
16 **Permit No. PHY 53607**

17 **and**

18 **ARTIN AGHAKHANI**
19 **License No. RPH 72110,**

20 Respondents.

21 In the Matter of the Statement of Issues
Against:

22 **ABC PHARMACEUTICAL SOLUTIONS**
23 **DBA TOWER PHARMACY, ARTIN**
24 **AGHAKHANI**

25 Community Pharmacy License Applicant

26 Respondents.
27
28

Case No. 7035

Lead OAH No. 2021030030

STIPULATED SETTLEMENT AS TO
RESPONDENT ARTIN AGHAKHANI
[RPH 72110] ONLY

Case No. 7049

OAH No. 2021030031

In the Matter of the Accusation Against:

Case No. 7154

**NATALIE GOLD INC. DBA BURBANK
TOWER PHARMACY, KARINA
NAZARIAN, ARTIN AGHAKHANI,
Permit No. PHY 53938,**

OAH No. 2021080234

and

**ARTIN AGHAKHANI
License No. RPH 72110,**

Respondents.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Diana Petikyan, Deputy Attorney General.

2. Respondent Artin Aghakhani (Respondent) is represented in this proceeding by attorney Ivan Petrzela of Gemini Law, P.O. Box 552, Red Bluff, CA 96080; (530) 387-2452.

3. On or about November 25, 2014, the Board of Pharmacy issued Pharmacist License Number RPH 72110 to Respondent. The license was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2021, unless renewed.

4. On or about August 3, 2015, the Board of Pharmacy issued Permit Number PHY 53607 to M.A.N. Nazareth Inc. dba Tower Pharmacy, Michael Allen Nazarian. Michael Allen Nazarian was the Chief Executive Officer, 100% Shareholder, Director, Secretary, and Treasurer/Chief Financial Officer from August 3, 2015 to April 28, 2020. Respondent was the Pharmacist-in-Charge¹ from August 3, 2015 to October 29, 2015 and January 22, 2016 to April 28, 2020. This Permit was cancelled on April 27, 2020, and has not been renewed.

¹ Pursuant to Business and Professions Code section 4036.5, a "Pharmacist-in-charge" refers a pharmacist proposed by a pharmacy and approved by the Board as the supervisor or manager

5. On or about June 1, 2016, the Board of Pharmacy issued Permit Number PHY 53938 to Natalie Gold Inc. dba Burbank Tower Pharmacy, Karina Nazarian, Artin Aghakhani. Karina Nazarian is and has been the Chief Executive Officer, President, Treasurer/Chief Financial Officer, 49% Shareholder since June 1, 2016. Respondent is and has been the Vice-President, Secretary, 51% Shareholder since June 1, 2016. Respondent was the Pharmacist-in-Charge from June 1, 2016 to August 1, 2017 and December 5, 2018 to May 12, 2020. Linda Nguyen, RPH 48563 is and has been the Pharmacist-in-Charge since May 12, 2021. The Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2022, unless renewed.

JURISDICTION

6. Accusation No. 7035 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 16, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

7. A copy of Accusation No. 7035 is attached as exhibit A and incorporated herein by reference.

8. Accusation No. 7154 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 21, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

9. A copy of Accusation No. 7154 is attached as exhibit B and incorporated herein by reference.

ADVISEMENT AND WAIVERS

10. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 7035 and Accusation No. 7154. Respondent has also

responsible for ensuring the pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

11. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

12. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

13. Respondent admits the truth of each and every charge and allegation in Accusation No. 7035 and Accusation No. 7154.

14. Respondent agrees that his pharmacist license is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

15. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

16. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

17. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

18. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 72110 issued to Respondent Artin Aghakhani is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the board, in writing, within seventy- two (72) hours of such occurrence:

an arrest or issuance of a criminal complaint for violation of any provision of the

Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws

a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal

criminal proceeding to any criminal complaint, information or indictment

a conviction of any crime

the filing of a disciplinary pleading, issuance of a citation, or initiation of another

administrative action filed by any state or federal agency which involves

Respondent's license or which is related to the practice of pharmacy or the

manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

1 Failure to timely report such occurrence shall be considered a violation of probation.

2 **2. Report to the Board**

3 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
4 designee. The report shall be made either in person or in writing, as directed. Among other
5 requirements, Respondent shall state in each report under penalty of perjury whether there has
6 been compliance with all the terms and conditions of probation.

7 Failure to submit timely reports in a form as directed shall be considered a violation of
8 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
9 total period of probation. Moreover, if the final probation report is not made as directed,
10 probation shall be automatically extended until such time as the final report is made and accepted
11 by the board.

12 **3. Interview with the Board**

13 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
14 with the board or its designee, at such intervals and locations as are determined by the board or its
15 designee. Failure to appear for any scheduled interview without prior notification to board staff,
16 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
17 the period of probation, shall be considered a violation of probation.

18 **4. Cooperate with Board Staff**

19 Respondent shall timely cooperate with the board's inspection program and with the board's
20 monitoring and investigation of Respondent's compliance with the terms and conditions of
21 probation, including but not limited to: timely responses to requests for information by board
22 staff; timely compliance with directives from board staff regarding requirements of any term or
23 condition of probation; and timely completion of documentation pertaining to a term or condition
24 of probation. Failure to timely cooperate shall be considered a violation of probation.

25 **5. Continuing Education**

26 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
27 pharmacist as directed by the board or its designee.
28

1 **6. Reporting of Employment and Notice to Employers**

2 During the period of probation, Respondent shall notify all present and prospective
3 employers of the decision in case number 7154 and case number 7035 and the terms, conditions
4 and restrictions imposed on Respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
6 undertaking any new employment, Respondent shall report to the board in writing the name,
7 physical address, and mailing address of each of his employer(s), and the name(s) and telephone
8 number(s) of all of his direct supervisor(s), as well as any pharmacist(s)-in- charge, designated
9 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
10 schedule, if known. Respondent shall also include the reason(s) for leaving the prior
11 employment. Respondent shall sign and return to the board a written consent authorizing the
12 board or its designee to communicate with all of Respondent's employer(s) and supervisor(s), and
13 authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,
14 concerning Respondent's work status, performance, and monitoring. Failure to comply with the
15 requirements or deadlines of this condition shall be considered a violation of probation.

16 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
17 Respondent undertaking any new employment, Respondent shall cause (a) his direct supervisor,
18 (b) pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
19 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the
20 board in writing acknowledging that the listed individual(s) has/have read the decision in case
21 number 7154 and case number 7035, and terms and conditions imposed thereby. If one person
22 serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It
23 shall be the Respondent's responsibility to ensure that these acknowledgment(s) are timely
24 submitted to the board. In the event of a change in the person(s) serving the role(s) described in
25 (a), (b), or (c) during the term of probation, Respondent shall cause the person(s) taking over the
26 role(s) to report to the board in writing within fifteen (15) days of the change acknowledging that
27 he or she has read the decision in case number 7154 and case number 7035, and the terms and
28 conditions imposed thereby.

1 If Respondent works for or is employed by or through an employment service, Respondent
2 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
3 of the decision in case number 7154 and case number 7035, and the terms and conditions imposed
4 thereby in advance of Respondent commencing work at such licensed entity. A record of this
5 notification must be provided to the board upon request.

6 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
7 (15) days of Respondent undertaking any new employment by or through an employment service,
8 Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment
9 service to report to the board in writing acknowledging that he or she has read the decision in case
10 number 7154 and case number 7035, and the terms and conditions imposed thereby. It shall be
11 Respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the
12 board.

13 Failure to timely notify present or prospective employer(s) or failure to cause the identified
14 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
15 shall be considered a violation of probation.

16 "Employment" within the meaning of this provision includes any full-time, part-time,
17 temporary, relief, or employment/management service position as a licensed pharmacy, or any
18 position for which a licensed pharmacist is a requirement or criterion for employment, whether
19 the Respondent is an employee, independent contractor or volunteer.

20 **7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

21 Respondent shall further notify the board in writing within ten (10) days of any change in
22 name, residence address, mailing address, e-mail address or phone number.

23 Failure to timely notify the board of any change in employer, name, address, or phone
24 number shall be considered a violation of probation.

25 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

26 During the period of probation, Respondent shall not supervise any intern pharmacist, be
27 the pharmacist-in-charge, designated representative-in-charge, responsible manager or other
28

1 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption
2 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

3 **9. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, Respondent shall pay to the
5 board its costs of investigation and prosecution in the amount of \$20,000. Respondent shall make
6 payments through a schedule agreed upon with the board or its designee.

7 There shall be no deviation from this schedule absent prior written approval by the board or
8 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
9 probation.

10 Respondent shall be permitted to pay these costs in a payment plan approved by the board
11 or its designee, so long as full payment is completed no later than one (1) year prior to the end
12 date of probation.

13 **10. Probation Monitoring Costs**

14 Respondent shall pay any costs associated with probation monitoring as determined by the
15 board each and every year of probation. Such costs shall be payable to the board on a schedule as
16 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
17 be considered a violation of probation.

18 **11. Status of License**

19 Respondent shall, at all times while on probation, maintain an active, current license with
20 the board, including any period during which suspension or probation is tolled. Failure to
21 maintain an active, current license shall be considered a violation of probation.

22 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
23 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
24 renewal or reapplication Respondent's license shall be subject to all terms and conditions of this
25 probation not previously satisfied.

26 **12. License Surrender While on Probation/Suspension**

27 Following the effective date of this decision, should Respondent cease practice due to
28 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,

Respondent may relinquish his license, including any indicia of licensure issued by the board, along with a request to surrender the license. The board or its designee shall have the discretion whether to accept the surrender or take any other action it deems appropriate and reasonable.

Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the Respondent's license history with the board.

Upon acceptance of the surrender, Respondent shall relinquish his pocket and/or wall license, including any indicia of licensure not previously provided to the board within ten (10) days of notification by the board that the surrender is accepted if not already provided.

Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

13. Practice Requirement – Extension of Probation

Except during periods of suspension, Respondent shall, at all times while on probation, be employed as a Licensed Pharmacist in California for a minimum of 80 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, Respondent must nonetheless comply with all terms and conditions of probation, unless Respondent receives a waiver in writing from the board or its designee.

If Respondent does not practice as a Licensed Pharmacist in California for the minimum number of hours in any calendar month, for any reason (including vacation), Respondent shall notify the board in writing within ten (10) days of the conclusion of that calendar month. This notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or reduction in practice; and the anticipated date(s) on which Respondent will resume practice at the required level. Respondent shall further notify the board in writing within ten (10) days following the next calendar month during which Respondent practices as a Licensed

1 Pharmacist in California for the minimum of hours. Any failure to timely provide such
2 notification(s) shall be considered a violation of probation.

3 It is a violation of probation for Respondent's probation to be extended pursuant to the
4 provisions of this condition for a total period, counting consecutive and non-consecutive months,
5 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
6 probation period on its website.

7 **14. Violation of Probation**

8 If Respondent has not complied with any term or condition of probation, the board shall
9 have continuing jurisdiction over Respondent, and the board shall provide notice to Respondent
10 that probation shall automatically be extended, until all terms and conditions have been satisfied
11 or the board has taken other action as deemed appropriate to treat the failure to comply as a
12 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
13 board or its designee may post a notice of the extended probation period on its website.

14 If Respondent violates probation in any respect, the board, after giving Respondent notice
15 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
16 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
17 probation, or the preparation of an accusation or petition to revoke probation is requested from
18 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
19 probation shall be automatically extended until the petition to revoke probation or accusation is
20 heard and decided.

21 **15. Completion of Probation**

22 Upon written notice by the board or its designee indicating successful completion of
23 probation, Respondent's license will be fully restored.

24 **16. Remedial Education**

25 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
26 board or its designee, for prior approval, an appropriate program of remedial education related to
27 pharmacy law, record keeping requirements, and pharmacy operations. The program of remedial
28 education shall consist of at least 6 hours per year in the subjects of pharmacy law, record

1 keeping requirements, operations, etc., which shall be completed within the probationary period
2 at Respondent's own expense. All remedial education shall be in addition to, and shall not be
3 credited toward, continuing education (CE) courses used for license renewal purposes for
4 pharmacists. 50% of the education annually must be via live webinar or in person.

5 Failure to timely submit for approval or complete the approved remedial education shall be
6 considered a violation of probation. The period of probation will be automatically extended until
7 such remedial education is successfully completed and written proof, in a form acceptable to the
8 board, is provided to the board or its designee.

9 Following the completion of each course, the board or its designee may require the
10 Respondent, at his own expense, to take an approved examination to test the Respondent's
11 knowledge of the course. If the Respondent does not achieve a passing score on the examination
12 that course shall not count towards satisfaction of this term. Respondent shall take another course
13 approved by the board in the same subject area.

14 **17. Ethics Course**

15 Within sixty (60) calendar days of the effective date of this decision, Respondent shall
16 enroll, if not already enrolled, in a course in ethics, at Respondent's expense, approved in advance
17 by the board or its designee that complies with Title 16 California Code of Regulations section
18 1773.5. Respondent shall provide proof of enrollment upon request. Within five (5) days of
19 completion, respondent shall submit a copy of the certificate of completion to the board or its
20 designee. Failure to timely enroll in an approved ethics course, to initiate the course during the
21 first year of probation, to successfully complete it before the end of the second year of probation,
22 or to timely submit proof of completion to the board or its designee, shall be considered a
23 violation of probation.

24 **18. Supervised Practice**

25 Within thirty (30) days of the effective date of this decision, Respondent shall submit to the
26 board or its designee, for prior approval, the name of a licensed pharmacist by and not on
27 probation with the board, to serve as Respondent's practice supervisor. As part of the
28 documentation submitted, Respondent shall cause the proposed practice supervisor to report to

1 the board in writing acknowledging that he or she has read the decision in case number 7154 and
2 case number 7035, and is familiar with the terms and conditions imposed thereby, including the
3 level of supervision required by the board or its designee. This level – which may change
4 throughout the duration of probation – will be determined by the board or its designee, will be
5 communicated to the Respondent on or before the effective date of this decision and shall be one
6 of the following:

7 Continuous – At least 75% of a work week

8 Substantial - At least 50% of a work week

9 Partial - At least 25% of a work week

10 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

11 Respondent may practice only under the required level of supervision by an approved
12 practice supervisor. If, for any reason, including change of employment, Respondent is no longer
13 supervised at the required level by an approved practice supervisor, within ten (10) days of this
14 change in supervision Respondent shall submit to the board or its designee, for prior approval, the
15 name of a licensed pharmacist by and not on probation with the board, to serve as Respondent's
16 replacement practice supervisor. As part of the documentation submitted, Respondent shall cause
17 the proposed replacement practice supervisor to report to the board in writing acknowledging that
18 he or she has read the decision in case number 7154 and case number 7035, and is familiar with
19 the terms and conditions imposed thereby, including the level of supervision required.

20 Any of the following shall result in the automatic suspension of practice by a Respondent
21 and shall be considered a violation of probation:

22 Failure to nominate an initial practice supervisor, and to have that practice supervisor report
23 to the board in writing acknowledging the decision, terms and conditions, and supervision level,
24 within thirty (30) days;

25 Failure to nominate a replacement practice supervisor, and to have that practice supervisor
26 report to the board in writing acknowledging the decision, terms and conditions, and supervision
27 level, within ten (10) days;

1 Practicing in the absence of an approved practice supervisor beyond the initial or
2 replacement nomination period; or

3 Any failure to adhere to the required level of supervision.

4 Respondent shall not resume practice until notified in writing by the board or its designee.

5 During any suspension, Respondent shall not enter any pharmacy area or any portion of the
6 licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug
7 retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or
8 any area where dangerous drugs and/or dangerous devices or controlled substances are
9 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,
10 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall
11 Respondent manage, administer, or be a consultant to any licensee of the board, or have access to
12 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
13 dangerous devices or controlled substances.

14 During any suspension, Respondent shall not engage in any activity that requires the
15 professional judgment and/or licensure as a pharmacist. Respondent shall not direct or control
16 any aspect of the practice of pharmacy or of the manufacture, distribution, wholesaling, or
17 retailing of dangerous drugs and/or dangerous devices or controlled substances.

18 Failure to comply with any suspension shall be considered a violation of probation.

19 **19. No Ownership or Management of Licensed Premises**

20 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
21 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
22 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
23 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
24 days following the effective date of this decision and shall immediately thereafter provide written
25 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
26 documentation thereof shall be considered a violation of probation.

27 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
28 manager, administrator, member, officer, director, trustee, associate, or partner of any additional

1 business, firm, partnership, or corporation licensed by the board. Violation of this restriction
2 shall be considered a violation of probation.

3 **ACCEPTANCE**

4 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
5 discussed it with my attorney, Ivan Petrzelka. I understand the stipulation and the effect it will
6 have on my License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
7 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
8 Pharmacy.

9
10 DATED: _____

ARTIN AGHAKHANI
Respondent

12
13 I have read and fully discussed with Respondent Artin Aghakhani the terms and conditions
14 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
15 its form and content.

16 DATED: _____

IVAN PETRZELKA
Attorney for Respondent

1 business, firm, partnership, or corporation licensed by the board. Violation of this restriction
2 shall be considered a violation of probation.

3 **ACCEPTANCE**

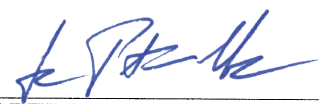
4 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
5 discussed it with my attorney, Ivan Petrzelka. I understand the stipulation and the effect it will
6 have on my License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
7 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
8 Pharmacy.

9
10 DATED: 11/9/2021


11 ARTIN AGHAKHANI
12 Respondent

13 I have read and fully discussed with Respondent Artin Aghakhani the terms and conditions
14 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
15 its form and content.

16 DATED: November 10, 2021


17 IVAN PETRZELKA
18 Attorney for Respondent
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General

DIANA PETIKYAN
Deputy Attorney General
Attorneys for Complainant

LA2021602418;
64585021.docx

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: November 10, 2021

Respectfully submitted,

ROB BONTA
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General

DIANA PETIKYAN
Deputy Attorney General
Attorneys for Complainant

LA2021602418;
64585021.docx

Exhibit A

Accusation No. 7035

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 DIANA PETIKYAN
Deputy Attorney General
4 State Bar No. 306153
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6193
6 Facsimile: (916) 731-2126
E-mail: Diana.Petikyan@doj.ca.gov
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 7035

13 **M.A.N. NAZARETH INC. DBA TOWER**
PHARMACY, MICHAEL ALLEN
14 **NAZARIAN, CEO**
350 S. Glenoaks Blvd
15 **Burbank, CA 91502**

ACCUSATION

16 **Permit No. PHY 53607,**

17 **and**

18 **ARTIN AGHAKHANI**
14050 Magnolia Blvd, #313
19 **Sherman Oaks, CA 91423**

20 **Pharmacist License No. RPH 72110**

21 Respondents.

22 **PARTIES**

23 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
24 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

25 2. On or about August 3, 2015, the Board of Pharmacy issued Permit Number PHY
26 53607 to M.A.N. Nazareth Inc. dba Tower Pharmacy, Michael Allen Nazarian (Tower
27 Pharmacy). Michael Allen Nazarian was the Chief Executive Officer, 100% Shareholder,
28 Director, Secretary, and Treasurer/Chief Financial Officer from August 3, 2015 to April 28, 2020.

1 Artin Aghakhani was the Pharmacist-in-Charge¹ from August 3, 2015 to October 29, 2015 and
2 January 22, 2016 to April 28, 2020. This Permit was cancelled on April 27, 2020, and has not
3 been renewed.

4 3. On or about November 25, 2014, the Board of Pharmacy issued Pharmacist License
5 Number RPH 72110 to Artin Aghakhani (Aghakhani). The Pharmacist License was in full force
6 and effect at all times relevant to the charges brought herein and will expire on December 31,
7 2021, unless renewed.

8 **JURISDICTION**

9 4. This Accusation is brought before the Board of Pharmacy (Board), Department of
10 Consumer Affairs, under the authority of the following laws. All section references are to the
11 Business and Professions Code (Code) unless otherwise indicated.

12 5. Business and Professions Code section 4011 states, "The board shall administer and
13 enforce this chapter and the Uniform Controlled Substances Act (Division 10 (commencing with
14 Section 11000) of the Health and Safety Code)."

15 6. Business and Professions Code section 4300 states:

16 (a) Every license issued may be suspended or revoked.

17 (b) The board shall discipline the holder of any license issued by the board, whose
18 default has been entered or whose case has been heard by the board and found guilty,
19 by any of the following methods:

20 (1) Suspending judgment.

21 (2) Placing him or her upon probation.

22 (3) Suspending his or her right to practice for a period not exceeding one
23 year.

24 (4) Revoking his or her license.

25 (5) Taking any other action in relation to disciplining him or her as the
26 board in its discretion may deem proper.

27 (c) The board may refuse a license to any applicant guilty of unprofessional
28 conduct. The board may, in its sole discretion, issue a probationary license to any
applicant for a license who is guilty of unprofessional conduct and who has met all

¹ Pursuant to Business and Professions Code section 4036.5, a "Pharmacist-in-charge" refers a
pharmacist proposed by a pharmacy and approved by the Board as the supervisor or manager
responsible for ensuring the pharmacy's compliance with all state and federal laws and regulations
pertaining to the practice of pharmacy.

1 other requirements for licensure. The board may issue the license subject to any terms
2 or conditions not contrary to public policy, including, but not limited to, the following:

- 3 (1) Medical or psychiatric evaluation.
- 4 (2) Continuing medical or psychiatric treatment.
- 5 (3) Restriction of type or circumstances of practice.
- 6 (4) Continuing participation in a board-approved rehabilitation program.
- 7 (5) Abstention from the use of alcohol or drugs.
- 8 (6) Random fluid testing for alcohol or drugs.
- 9 (7) Compliance with laws and regulations governing the practice of
10 pharmacy.

11 (d) The board may initiate disciplinary proceedings to revoke or suspend any
12 probationary certificate of licensure for any violation of the terms and conditions of
13 probation. Upon satisfactory completion of probation, the board shall convert the
14 probationary certificate to a regular certificate, free of conditions.

15 (e) The proceedings under this article shall be conducted in accordance with
16 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government
17 Code, and the board shall have all the powers granted therein. The action shall be final,
18 except that the propriety of the action is subject to review by the superior court pursuant
19 to Section 1094.5 of the Code of Civil Procedure.

20 7. Business and Professions Code section 4300.1 states, “The expiration, cancellation,
21 forfeiture, or suspension of a board-issued license by operation of law or by order or decision of
22 the board or a court of law, the placement of a license on a retired status, or the voluntary
23 surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or
24 proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to
25 render a decision suspending or revoking the license.”

26 8. Business and Professions Code section 4032 states, “‘License’ means and includes
27 any license, permit, registration, certificate, or exemption issued by the board and includes the
28 process of applying for and renewing the same.”

29 **STATUTORY PROVISIONS**

30 9. Section 4040 of the Code states:

31 (a) “Prescription” means an oral, written, or electronic transmission order that is
32 both of the following:

33 (1) Given individually for the person or persons for whom ordered that
34 includes all of the following:

- 35 (A) The name or names and address of the patient or patients.
- 36 (B) The name and quantity of the drug or device prescribed and the
37 directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition or purpose for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order, or the certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor who issues a drug order pursuant to Section 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist who issues a drug order pursuant to Section 4052.1, 4052.2, or 4052.6.\

(2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued pursuant to Section 2746.51, 2836.1, 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor licensed in this state, or pursuant to Section 4052.1, 4052.2, or 4052.6 by a pharmacist licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, that contains at least the name and signature of the prescriber, the name and address of the patient in a manner consistent with paragraph (2) of subdivision (a) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist as long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between this subdivision and Section 11164 of the Health and Safety Code, Section 11164 of the Health and Safety Code shall prevail.

(c) "Electronic transmission prescription" includes both image and data prescriptions. "Electronic image transmission prescription" means any prescription order for which a facsimile of the order is received by a pharmacy from a licensed prescriber. "Electronic data transmission prescription" means any prescription order, other than an electronic image transmission prescription, that is electronically transmitted from a licensed prescriber to a pharmacy.

(d) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(e) Nothing in the amendments made to this section (formerly Section 4036) at the 1969 Regular Session of the Legislature shall be construed as expanding or limiting the right that a chiropractor, while acting within the scope of his or her license, may have to prescribe a device.

10. Section 4063 of the Code states:

No prescription for any dangerous drug or dangerous device may be refilled except upon authorization of the prescriber. The authorization may be given orally or at the time of giving the original prescription. No prescription for any dangerous drug that is a controlled substance may be designated refillable as needed.

11. Section 4081 of the Code states:

(a) All records of manufacture and of sale, acquisition, receipt, shipment, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, third-party logistics provider, pharmacy, veterinary food-animal drug retailer, outsourcing facility, physician, dentist, podiatrist, veterinarian, laboratory, licensed correctional clinic, as defined in Section 4187, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

(b) The owner, officer, and partner of a pharmacy, wholesaler, third-party logistics provider, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge, responsible manager, or designated representative-in-charge, for maintaining the records and inventory described in this section.

(c) The pharmacist-in-charge, responsible manager, or designated representative-in-charge shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge, responsible manager, or designated representative-in-charge had no knowledge, or in which he or she did not knowingly participate.

(d) Pharmacies that dispense nonprescription diabetes test devices pursuant to prescriptions shall retain records of acquisition and sale of those nonprescription diabetes test devices for at least three years from the date of making. The records shall be at all times during business hours open to inspection by authorized officers of the law.

12. Section 4301 of the Code states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

...

13. Section 4307 of the Code states:

1 (a) Any person who has been denied a license or whose license has been
2 revoked or is under suspension, or who has failed to renew his or her license while
3 it was under suspension, or who has been a manager, administrator, owner,
4 member, officer, director, associate, partner, or any other person with management
5 or control of any partnership, corporation, trust, firm, or association whose
6 application for a license has been denied or revoked, is under suspension or has
7 been placed on probation, and while acting as the manager, administrator, owner,
8 member, officer, director, associate, partner, or any other person with management
9 or control had knowledge of or knowingly participated in any conduct for which
10 the license was denied, revoked, suspended, or placed on probation, shall be
11 prohibited from serving as a manager, administrator, owner, member, officer,
12 director, associate, partner, or in any other position with management or control of
13 a licensee as follows:

14 (1) Where a probationary license is issued or where an existing license
15 is placed on probation, this prohibition shall remain in effect for a
16 period not to exceed five years.

17 (2) Where the license is denied or revoked, the prohibition shall
18 continue until the license is issued or reinstated.

19 (b) "Manager, administrator, owner, member, officer, director, associate,
20 partner, or any other person with management or control of a license" as used in
21 this section and Section 4308, may refer to a pharmacist or to any other person
22 who serves in such capacity in or for a licensee.

23 (c) The provisions of subdivision (a) may be alleged in any pleading filed
24 pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of
25 the Government Code. However, no order may be issued in that case except as to a
26 person who is named in the caption, as to whom the pleading alleges the
27 applicability of this section, and where the person has been given notice of the
28 proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1
of Division 3 of the Government Code. The authority to proceed as provided by
this subdivision shall be in addition to the board's authority to proceed under
Section 4339 or any other provision of law.

14. Section 4332 of the Code states, "Any person who fails, neglects, or refuses
maintain the records required by Section 4081 or who, when called upon by an authorized
officer or a member of the board, fails, neglects, or refuses to produce or provide the
records within a reasonable time, or who willfully produces or furnishes records that are
false, is guilty of a misdemeanor."

REGULATORY PROVISIONS

15. California Code of Regulations, title 16, section 1714, states, in pertinent part:

...

(b) Each pharmacy licensed by the board shall maintain its facilities, space,
fixtures, and equipment so that drugs are safely and properly prepared, maintained,

1 secured and distributed. The pharmacy shall be of sufficient size and unobstructed
2 area to accommodate the safe practice of pharmacy.

3 ...

4 16. California Code of Regulations, title 16, section 1716, states:

5 Pharmacists shall not deviate from the requirements of a prescription except
6 upon the prior consent of the prescriber or to select the drug product in accordance
with Section 4073 of the Business and Professions Code.

7 Nothing in this regulation is intended to prohibit a pharmacist from exercising
8 commonly-accepted pharmaceutical practice in the compounding or dispensing of a
prescription.

9 17. California Code of Regulations, title 16, section 1718, states:

10 "Current Inventory" as used in Sections 4081 and 4332 of the Business and
11 Professions Code shall be considered to include complete accountability for all
dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

12 The controlled substances inventories required by Title 21, CFR, Section
13 1304 shall be available for inspection upon request for at least 3 years after the
14 date of the inventory.

15 18. California Code of Regulations, title 16, section 1761, states:

16 (a) No pharmacist shall compound or dispense any prescription which
17 contains any significant error, omission, irregularity, uncertainty, ambiguity or
alteration. Upon receipt of any such prescription, the pharmacist shall contact the
18 prescriber to obtain the information needed to validate the prescription.

19 (b) Even after conferring with the prescriber, a pharmacist shall not
20 compound or dispense a controlled substance prescription where the pharmacist
knows or has objective reason to know that said prescription was not issued for a
legitimate medical purpose.

21 **COST RECOVERY**

22 19. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licensee found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
26 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
27 included in a stipulated settlement.

1 **DISCIPLINE CONSIDERATIONS**

2 20. To determine the degree of discipline, if any, to be imposed on Respondent Artin
3 Aghakhani, Complainant alleges that on or about June 21, 2019, in a prior action, the Board of
4 Pharmacy issued Citation Number CI 2017 80685 and ordered Respondent to pay a \$400.00 fine
5 for failing to provide documentation substantiating the completion of 30 hours of continuing
6 education. That Citation is now final.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Variation from Prescription)**

9 21. Respondents Tower Pharmacy and Aghakhani are subject to disciplinary action under
10 Code section 4301, subdivision (o) in conjunction with California Code of Regulations (CCR),
11 title 16, section 1716 in that Respondents dispensed prescriptions which varied from the original
12 prescription. Specifically,

- 13 a. On April 30 and May 25, 2018 prescription RX317033 was entered with the
14 incorrect origin code; and
15 b. The following ten prescriptions were entered with the incorrect day supply:
16 RX#311705, RX#314528, RX#318530, RX#320300, RX#329979, RX#331436,
17 RX#332876, RX#334726, RX#307432, RX#318041.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Dispensing Refills without Prescriber Authorization)**

20 22. Respondents Tower Pharmacy and Aghakhani are subject to disciplinary action under
21 Code section 4301, subdivision (o) in conjunction with Code section 4063 in that Respondents
22 dispensed RX#311705 on May 17, June 11, July 5, July 30, August 23, October 18, and
23 December 6, 2018 without authorization from the prescriber. Respondents also dispensed
24 RX#320300 on July 31, August 27, September 20, and October 16, 2018 without authorization
25 from the prescriber.

THIRD CAUSE FOR DISCIPLINE

(Incomplete Prescription Content)

23. Respondents Tower Pharmacy and Aghakhani are subject to disciplinary action under Code section 4301, subdivision (o) in conjunction with Code section 4040 in that Respondents dispensed prescriptions RX#311705 and RX#329979 without signatures from the prescriber authorizing the prescription refill.

FOURTH CAUSE FOR DISCIPLINE

(Dispensed Prescriptions Containing Omission or Uncertainty)

24. Respondents Tower Pharmacy and Aghakhani are subject to disciplinary action under Code section 4301, subdivision (o) in conjunction with CCR, title 16, section 1761 in that Respondents dispensed a prescription containing an omission and uncertainty. Specifically, RX#328888 was written for Voltaren 1% gel to apply to the affected area three times daily. However, this prescription did not indicate the amount to apply or the area to be treated. Respondents did not provide documentation showing that the prescriber was contacted to clarify the missing information.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate Disposition/Inventory Records)

25. Respondents Tower Pharmacy and Aghakhani are subject to disciplinary action under Code section 4301, subdivision (o) in conjunction with Code section 4081 and CCR, title 16, sections 1714 and 1718 in that Respondents did not maintain complete accountability for all dangerous drugs. Specifically, a 19-month audit from October 23, 2018 to May 13, 2020 of acquisition and disposition records revealed discrepancies in Respondents' inventory as follows:

- a. Tower Pharmacy had an overage of the following drugs (indicating that they billed for a greater quantity than they purchased):

Quantity	Drug
74	Anoro Ellipta inhalers
129	Breo Ellipta inhalers
6,151	Colcrys 0.6mg tablets
9,190	Creon DR 24,000 unit capsules
18,400	Creon DR 36,000 unit capsules
18,120	Dexilant DR 60mg capsules

Quantity	Drug
1,607	Diclofenac 1% gel 100gm tubes
49	Lantus vials
5,070	Linzess 145mcg capsules
4,815	Linzess 290mcg capsules
5,550	Myrbetriq ER 25mg tablets;
1,500	Namzaric 28-10mg capsules
47,610	Omega-3 lgm capsules
200	Pazeo 0.7% vials
336	Restasis multi-dose 0.05% 60ml vials
233	Symbicort 160-45mcg inhalers
77,982	Tamsulosin 0.4mg capsules
84	Trulicity 1.5mg/0.5ml pens
76,330	Vascepa 1 gm capsules
315	Voltaren 1 % gel tubes
2,790	Eliquis 5mg tablets
40,852	Gabapentin 300mg capsules
570	Januvia 100mg tablets
1,860	Januvia 50mg tablets
1,830	Jardiance 10mg tablets
22	Prolia 60mg/ml syringes
3,060	Tradjenta 5mg tablets

b. Tower pharmacy also could not account for the loss of the following drugs

Quantity	Drug
156	Restasis 0.05% 5.5ml vials
210	Eliquis 5mg tablets
5	Victoza 3-pak 18mg/3ml pens

OTHER MATTERS

26. Pursuant to Business and Professions Code section 4307, if discipline is imposed on Pharmacy License Number RPH 72110 issued to Artin Aghakhani or Pharmacy Permit Number PHY 53607, issued to M.A.N. Nazareth Inc. dba Tower Pharmacy, Michael Allen Nazarian (Tower Pharmacy), for conduct that occurred while Respondent Aghakhani was the manager, and Respondent Aghakhani had knowledge of or knowingly participated in the conduct for which Respondent Tower Pharmacy was disciplined, then Respondent Aghakhani shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy License Number RPH 72110 or Pharmacy Permit Number PHY 53607 is placed on probation or until Pharmacy License Number RPH 72110 or Pharmacy Permit Number PHY 53607 is reinstated if it is revoked.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Permit Number PHY 53607, issued to M.A.N. Nazareth Inc. dba Tower Pharmacy, Michael Allen Nazarian;

2. Revoking or suspending Pharmacist License Number RPH 72110, issued to Artin Aghakhani;

3. Prohibiting Respondent Aghakhani from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 53607 or Pharmacy License Number RPH 72110 is placed on probation or until Pharmacy Permit Number PHY 53607 or Pharmacy License Number RPH 72110 is reinstated if it is revoked;

4. Ordering Tower Pharmacy and Artin Aghakhani to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

5. Taking such other and further action as deemed necessary and proper.

DATED: 11/16/2020

Signature on File

ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

LA2020602707
63672055.docx

Exhibit B

Accusation No. 7154

1 ROB BONTA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 DIANA PETIKYAN
Deputy Attorney General
4 State Bar No. 306153
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6193
6 Facsimile: (916) 731-2126
E-mail: Diana.Petikyan@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 7154

13 **NATALIE GOLD INC. DBA BURBANK**
14 **TOWER PHARMACY, KARINA**
15 **NAZARIAN, ARTIN AGHAKHANI**
16 **140 N. San Fernando Blvd**
17 **Burbank, CA 91502**

ACCUSATION

18 **Permit No. PHY 53938,**

19 **and**

20 **ARTIN AGHAKHANI**
21 **14050 Magnolia Blvd, #313**
22 **Sherman Oaks, CA 91423**

23 **License No. RPH 72110,**

24 Respondents.

25 **PARTIES**

26 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
27 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

28 2. On or about June 1, 2016, the Board of Pharmacy issued Permit Number PHY 53938
to Natalie Gold Inc. dba Burbank Tower Pharmacy, Karina Nazarian, Artin Aghakhani (Burbank
Tower Pharmacy). Karina Nazarian is and has been the Chief Executive Officer, President,
Treasurer/Chief Financial Officer, 49% Shareholder since June 1, 2016. Artin Aghakhani is and

1 has been the Vice-President, Secretary, 51% Shareholder since June 1, 2016. Artin Aghakhani
2 was the Pharmacist-in-Charge¹ from June 1, 2016 to August 1, 2017 and December 5, 2018 to
3 May 12, 2020. Linda Nguyen, RPH 48563 is and has been the Pharmacist-in-Charge since May
4 12, 2021. The Permit was in full force and effect at all times relevant to the charges brought
5 herein and will expire on June 1, 2022, unless renewed.

6 3. On or about November 25, 2014, the Board of Pharmacy issued License Number
7 RPH 72110 to Artin Aghakhani (Aghakhani). The license was in full force and effect at all times
8 relevant to the charges brought herein and will expire on December 31, 2021, unless renewed.

9 **JURISDICTION**

10 4. This Accusation is brought before the Board of Pharmacy (Board), Department of
11 Consumer Affairs, under the authority of the following laws. All section references are to the
12 Business and Professions Code (Code) unless otherwise indicated.

13 5. Business and Professions Code section 4011 states, "The board shall administer and
14 enforce this chapter and the Uniform Controlled Substances Act (Division 10 (commencing with
15 Section 11000) of the Health and Safety Code)."

16 6. Business and Professions Code section 4300 states:

17 (a) Every license issued may be suspended or revoked.

18 (b) The board shall discipline the holder of any license issued by the board, whose
19 default has been entered or whose case has been heard by the board and found guilty,
20 by any of the following methods:

21 (1) Suspending judgment.

22 (2) Placing him or her upon probation.

23 (3) Suspending his or her right to practice for a period not exceeding one
24 year.

25 (4) Revoking his or her license.

26 (5) Taking any other action in relation to disciplining him or her as the
27 board in its discretion may deem proper.

28 (c) The board may refuse a license to any applicant guilty of unprofessional
conduct. The board may, in its sole discretion, issue a probationary license to any
applicant for a license who is guilty of unprofessional conduct and who has met all

¹ Pursuant to Business and Professions Code section 4036.5, a "Pharmacist-in-charge"
refers a pharmacist proposed by a pharmacy and approved by the Board as the supervisor or
manager responsible for ensuring the pharmacy's compliance with all state and federal laws and
regulations pertaining to the practice of pharmacy.

1 other requirements for licensure. The board may issue the license subject to any terms
2 or conditions not contrary to public policy, including, but not limited to, the following:

- 3 (1) Medical or psychiatric evaluation.
- 4 (2) Continuing medical or psychiatric treatment.
- 5 (3) Restriction of type or circumstances of practice.
- 6 (4) Continuing participation in a board-approved rehabilitation program.
- 7 (5) Abstention from the use of alcohol or drugs.
- 8 (6) Random fluid testing for alcohol or drugs.
- 9 (7) Compliance with laws and regulations governing the practice of
10 pharmacy.

11 (d) The board may initiate disciplinary proceedings to revoke or suspend any
12 probationary certificate of licensure for any violation of the terms and conditions of
13 probation. Upon satisfactory completion of probation, the board shall convert the
14 probationary certificate to a regular certificate, free of conditions.

15 (e) The proceedings under this article shall be conducted in accordance with
16 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government
17 Code, and the board shall have all the powers granted therein. The action shall be final,
18 except that the propriety of the action is subject to review by the superior court pursuant
19 to Section 1094.5 of the Code of Civil Procedure.

20 7. Business and Professions Code section 4300.1 states, "The expiration,
21 cancellation, forfeiture, or suspension of a board-issued license by operation of law or by
22 order or decision of the board or a court of law, the placement of a license on a retired status,
23 or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction
24 to commence or proceed with any investigation of, or action or disciplinary proceeding
25 against, the licensee or to render a decision suspending or revoking the license."

26 8. Business and Professions Code section 4032 states, "'License' means and includes
27 any license, permit, registration, certificate, or exemption issued by the board and includes the
28 process of applying for and renewing the same."

STATUTORY PROVISIONS

9. Section 4063 of the Code states:

No prescription for any dangerous drug or dangerous device may be refilled
except upon authorization of the prescriber. The authorization may be given orally or
at the time of giving the original prescription. No prescription for any dangerous drug
that is a controlled substance may be designated refillable as needed.

10. Section 4081 of the Code states:

(a) All records of manufacture and of sale, acquisition, receipt, shipment, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, third-party logistics provider, pharmacy, veterinary food-animal drug retailer, outsourcing facility, physician, dentist, podiatrist, veterinarian, laboratory, licensed correctional clinic, as defined in Section 4187, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

(b) The owner, officer, and partner of a pharmacy, wholesaler, third-party logistics provider, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge, responsible manager, or designated representative-in-charge, for maintaining the records and inventory described in this section.

(c) The pharmacist-in-charge, responsible manager, or designated representative-in-charge shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge, responsible manager, or designated representative-in-charge had no knowledge, or in which he or she did not knowingly participate.

(d) Pharmacies that dispense nonprescription diabetes test devices pursuant to prescriptions shall retain records of acquisition and sale of those nonprescription diabetes test devices for at least three years from the date of making. The records shall be at all times during business hours open to inspection by authorized officers of the law.

11. Section 4113 of the Code states, in pertinent part:

...

(d) Every pharmacy shall notify the board in writing, on a form designed by the board, within 30 days of the date when a pharmacist-in-charge ceases to act as the pharmacist-in-charge, and shall on the same form propose another pharmacist to take over as the pharmacist-in-charge. The proposed replacement pharmacist-in-charge shall be subject to approval by the board. If disapproved, the pharmacy shall propose another replacement within 15 days of the date of disapproval and shall continue to name proposed replacements until a pharmacist-in-charge is approved by the board.

...

12. Section 4301 of the Code states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

...

13. Section 4307 of the Code states:

(a) Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control of any partnership, corporation, trust, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control had knowledge of or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of a licensee as follows:

(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.

(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.

(b) "Manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control of a license" as used in this section and Section 4308, may refer to a pharmacist or to any other person who serves in such capacity in or for a licensee.

(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. However, no order may be issued in that case except as to a person who is named in the caption, as to whom the pleading alleges the applicability of this section, and where the person has been given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision shall be in addition to the board's authority to proceed under Section 4339 or any other provision of law.

14. Section 4332 of the Code states, "Any person who fails, neglects, or refuses maintain the records required by Section 4081 or who, when called upon by an authorized officer or a member of the board, fails, neglects, or refuses to produce or provide the

records within a reasonable time, or who willfully produces or furnishes records that are false, is guilty of a misdemeanor.”

REGULATORY PROVISIONS

15. California Code of Regulations, title 16, section 1709, states, in pertinent part:

(a) Each permit to operate a pharmacy shall show the name and address of the pharmacy, the form of ownership (individual, partnership or corporation) and the pharmacist-in-charge. Each pharmacy shall, in its initial application on the annual renewal form, report the name of the pharmacist-in-charge, the names of all owners and the names of the corporate officers (if a corporation). Any changes in the pharmacist-in-charge, or the owners, or corporate officers shall be reported to the Board within 30 days.

...

16. California Code of Regulations, title 16, section 1714, states, in pertinent part:

...

(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy.

...

17. California Code of Regulations, title 16, section 1716, states:

Pharmacists shall not deviate from the requirements of a prescription except upon the prior consent of the prescriber or to select the drug product in accordance with Section 4073 of the Business and Professions Code.

Nothing in this regulation is intended to prohibit a pharmacist from exercising commonly-accepted pharmaceutical practice in the compounding or dispensing of a prescription.

18. California Code of Regulations, title 16, section 1718, states:

“Current Inventory” as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory.

1 **COST RECOVERY**

2 19. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Variation from Prescription)**

10 20. Respondent Burbank Tower Pharmacy is subject to disciplinary action under Code
11 section 4301, subdivision (o) in conjunction with California Code of Regulations (CCR), title 16,
12 section 1716 in that Respondent dispensed prescriptions which varied from the original
13 prescription as follows:

- 14 a. On June 29, 2018, prescription RX#1104495 was entered with the incorrect origin
15 code; and
16 b. The following twelve (12) prescriptions were entered with the incorrect day supply:
17 RX#104495, RX# 108090, RX#108386, RX#108812, RX#109154, RX#109327,
18 RX#109518, RX#110889, RX#110990, RX#1 11292, RX#1 11945, RX#1 12523.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Dispensing Refills without Prescriber Authorization)**

21 21. Respondent Burbank Tower Pharmacy is subject to disciplinary action under Code
22 section 4301, subdivision (o) in conjunction with Code section 4063 in that Respondent dispensed
23 a prescription without authorization from the prescriber as follows: On May 16, 2018,
24 RX#106889 was approved for one fill of #30 Januvia 50mg. However, this prescription was
25 refilled again on June 27, 2018 and July 23, 2018 without documented refill authorizations until
26 August 16, 2018.

THIRD CAUSE FOR DISCIPLINE

(Failure to Designate Pharmacist-in-Charge)

22. Respondents Burbank Tower Pharmacy and Aghakhani are subject to disciplinary action under Code section 4301, subdivision (o) in conjunction with Code section 4113, subdivision (d), and CCR, title 16, section 1709, subdivision (a) in that Respondents failed to designate a new pharmacist-in-charge within 30 days as required. Specifically, on October 1, 2020, Pharmacist-in-Charge Aghakhani disassociated as the pharmacist-in-charge until March 18, 2021 – when Aghakhani reported that he would serve as the Interim Pharmacist-in-Charge of Burbank Tower Pharmacy.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate Disposition/Inventory Records)

23. Respondents Burbank Tower Pharmacy and Aghakhani are subject to disciplinary action under Code section 4301, subdivision (o) in conjunction with Code section 4081 and CCR, title 16, sections 1714 and 1718 in that Respondents did not maintain complete accountability for all dangerous drugs. Specifically, a 27-month audit from November 1, 2018 to February 15, 2021 of acquisition and disposition records revealed discrepancies in the pharmacy's inventory as follows:

Burbank Tower Pharmacy had an overage of the following drugs, valued at \$334,890.30 (which were processed as prescription claims, but never purchased):

Quantity	Drug
1,740	Brilinta 90mg tablets
68	Clonidine 0.3mg/day patches
16,450	Creon DR 36,000 capsules
1,350	Dexilant DR 30mg capsules
10,380	Dexilant DR 60mg capsules
1,832	Eliquis 5mg tablets
42	Lantus 100unit/ml vials
1,350	Linzess 72mcg capsules
90	Onglyza 5mg tablets
50	Symbicort 80-4.5mg inhalers
360	Synjardy XR 12.5-1,000mg tablets
180	Xifaxan 550mg tablets

1 **DISCIPLINE CONSIDERATIONS**

2 24. To determine the degree of discipline, if any, to be imposed on Respondent Artin
3 Aghakhani, Complainant alleges that on or about June 21, 2019, in a prior action, the Board of
4 Pharmacy issued Citation Number CI 2017 80685 and ordered Respondent to pay a \$400.00 fine
5 for failing to provide documentation substantiating the completion of 30 hours of continuing
6 education. That Citation is now final.

7 **OTHER MATTERS**

8 25. Pursuant to Business and Professions Code section 4307, if discipline is imposed on
9 Pharmacy License Number RPH 72110 issued to Artin Aghakhani or Pharmacy Permit Number
10 PHY 53938, issued to Natalie Gold Inc. dba Burbank Tower Pharmacy, Karina Nazarian, Artin
11 Aghakhani (Burbank Tower Pharmacy), for conduct that occurred while Respondent Aghakhani
12 was the manager, and Respondent Aghakhani had knowledge of or knowingly participated in the
13 conduct for which Respondent Burbank Tower Pharmacy was disciplined, then Respondent
14 Aghakhani shall be prohibited from serving as a manager, administrator, owner, member, officer,
15 director, associate, or partner of a licensee for five years if Pharmacy License Number RPH
16 72110 or Pharmacy Permit Number PHY 53938 is placed on probation or until Pharmacy License
17 Number RPH 72110 or Pharmacy Permit Number PHY 53938 is reinstated if it is revoked.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board of Pharmacy issue a decision:

- 21 1. Revoking or suspending Permit Number PHY 53938, issued to Natalie Gold Inc. dba
22 Burbank Tower Pharmacy, Karina Nazarian, Artin Aghakhani;
- 23 2. Revoking or suspending License Number RPH 72110, issued to Artin Aghakhani;
- 24 3. Prohibiting Respondent Aghakhani from serving as a manager, administrator, owner,
25 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
26 Number PHY 53938 or Pharmacy License Number RPH 72110 is placed on probation or until
27
28

1 Pharmacy Permit Number PHY 53938 or Pharmacy License Number RPH 72110 is reinstated if
2 it is revoked.

3 4. Ordering Burbank Tower Pharmacy and Artin Aghakhani to pay the Board of
4 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
5 Business and Professions Code section 125.3; and,

6 5. Taking such other and further action as deemed necessary and proper.
7
8
9

10 DATED: 7/21/2021

Signature on File

11 ANNE SODERGREN
12 Executive Officer
13 Board of Pharmacy
14 Department of Consumer Affairs
15 State of California
16 *Complainant*

15 LA2021602418
16 64345338.docx
17
18
19
20
21
22
23
24
25
26
27
28